

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,

Plaintiff,

v.

APPEALS COORDINATOR AT  
CORCORAN STATE PRISON,

Defendant.

1:05-CV-00188-OWW-DLB-P

ORDER VACATING FINDINGS  
AND RECOMMENDATION OF  
AUGUST 18, 2006  
[Document #14]

ORDER DIRECTING CLERK TO FILE  
LODGED SECOND AMENDED COMPLAINT  
[Document #15]

Plaintiff is a state prisoner proceeding with a civil rights action pursuant to 42 U.S.C. § 1983. On August 18, 2006, Magistrate Dennis L. Beck submitted findings and a recommendation to United States District Judge Oliver W. Wanger to dismiss plaintiff's case for failure to comply with the court's order of June 12, 2006, which ordered plaintiff to file a second amended complaint within thirty days of the court's order. On August 30, 2006, plaintiff lodged a second amended complaint with the court. Plaintiff's attempt to comply with the court's June 12, 2006 order was untimely. Plaintiff was ordered to file the amended complaint within thirty days,

1 but he did not submit it for over two months, without explanation of his delay. Plaintiff is hereby  
2 informed that in the future, he must file a request for an extension of time if he requires extra time  
3 to meet a court deadline.

4 Despite plaintiff's untimely response, the court will nevertheless allow plaintiff's  
5 action to proceed on the second amended complaint. The Magistrate's findings and  
6 recommendation shall be vacated, and the lodged amended complaint shall be filed. Plaintiff is  
7 cautioned that his case will be recommended for dismissal again if he fails to comply with a court  
8 order.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. The Magistrate's findings and recommendation of August 18, 2006, is  
11 VACATED in its entirety, and

12 2. The Clerk of Court is DIRECTED to file the second amended complaint  
13 which was lodged on August 30, 2006.

14 IT IS SO ORDERED.

15 **Dated: September 8, 2006**  
16 3c0hj8

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE